Supreme Court, U.S.
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IN THE

Supreme Court of the United States

RESEARCH IN MOTION, LTD.,
Petitioner,

v.

NTP, INC.,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Under § 271(a) of the Patent Act, "use" infringement is expressly limited to use of a patented invention "within the United States." The question presented is:

Whether an Internet-based global telecommunications system, such as the BlackBerry wireless email system, is used "within the United States," where components crucial to the system's operation are located outside the United States.

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Petitioner Research In Motion, Ltd. has no corporate parent, and there is no publicly held company that owns 10 percent or more of its stock.

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Petitioner Research In Motion, Ltd. respectfully requests the Court to issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit.

OPINIONS BELOW

The Federal Circuit's opinion is reported as *NTP, Inc. v. Research In Motion, Ltd.*, 418 F.3d 1282 (Fed. Cir. 2005), and reproduced in the Appendix at 1a. The Federal Circuit's Order of August 2, 2005 withdrawing and amending its previous opinion is reproduced at App. 74a, and its previous opinion is reported as *NTP, Inc. v. Research In Motion, Ltd.*, 392 F.3d 1336 (Fed. Cir. 2004), and reproduced at App. 78a. The Final Order of the United States District Court for the Eastern District of Virginia is reproduced at App. 137a. The district court's Memorandum Opinion addressing the question presented by this appeal is reproduced at App. 141a.

JURISDICTION

The court of appeals entered final judgment on August 2, 2005, and denied a timely petition for panel rehearing and rehearing en banc on October 7, 2005 (App. 73a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTE INVOLVED

Section 271(a) of the Patent Act states as follows:

> Except as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent.

35 U.S.C. § 271(a).